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Delaware Department of Correction Compliance Report

Submitted Pursuant to the Memorandum of Agreement Between the
United States Department of Justice and the State of Delaware
Regarding the Delores J. Baylor Women's Correctional Institution, the
Delaware Correctional Center, the Howard R. Young Correctional
Institution and the Sussex Correctional Institution

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Department of Correction

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INTRODUCTION

This Compliance Report is submitted pursuant to the Memorandum of Agreement (“MOA”) between the United States Department of Justice (“DOJ”) and the State of Delaware (the “State”) regarding the Delores J. Baylor Women’s Correctional Institution (“Baylor”), the Delaware Correctional Center (“DCC”), the Howard R. Young Correctional Institution (“HRYCI”) and the Sussex Correctional Institution (“SCI”).¹ The purpose of this Compliance Report is to provide the DOJ with current information regarding its progress implementing the State of Delaware Department of Correction Action Plan dated April 30, 2007 (the “Action Plan”), and steps taken by the State to ensure compliance with each of the substantive provisions of the MOA.²

Key Accomplishments

Effective July 1, 2007, the State entered into a two-year contractual agreement with Correctional Medical Services (“CMS”) to provide medical and mental health services to the inmate population housed at all of the Department of Correction (“DOC”) facilities, including the four Facilities subject to the MOA. Under the contract, CMS is required to fully staff the medical and mental health services provided to offenders housed at all DOC facilities. CMS employs a Regional Medical Director, Regional Vice President, Quality Assurance Coordinator, Mental Health Director and State Director of Nursing (“DON”). Further, at each Facility, CMS employs a site Health Services Administrator (“HSA”) and DON to oversee the medical and mental health care provided to the inmate population.

¹ Baylor, HRYCI, DCC, and SCI are also referred to individually as a “Facility” and collectively as the “Facilities” in this Compliance Report.

² This Compliance Report is prepared entirely as a result of the compromise of disputed claims brought by the United States Department of Justice against the State of Delaware. Nothing contained herein shall constitute or is intended to be interpreted as an admission of legal liability or an independent statement of fact. The statements contained herein are intended to be without prejudice to future or collateral legal actions, defenses or positions on behalf of the State of Delaware, or its agencies, departments, and employees. Additionally, the statements and documented actions by the State contained herein are subsequent remedial measures as set forth in Federal and State Rules of Evidence 407 and are taken with the express purpose to remediate any identified deficiency in the provision of healthcare services to inmates within the custody of the State of Delaware Department of Correction.

In addition to expanded staffing requirements established in the July 1, 2007 CMS contract, an Audit Tool was implemented under the Third Amendment to the service contract between CMS and DOC. The Audit Tool is used to evaluate CMS compliance with written performance standards that are based on standards established by the National Commission on Correctional Health Care (“NCCHC”), CMS protocols in effect at the time of the audit; and any policies, protocols, procedures or clinical pathways currently existing or adopted in the future by DOC. This audit mechanism provides for financial penalties that are imposed if CMS does not achieve specific compliance targets at a Facility.

On October 8, 2007, substantial modifications and improvements to the Delaware Automated Correction System (“DACS”) medical module, which are described at length in the Action Plan,³ were implemented at all DOC facilities. Additional enhancements to DACS and medical vendor staff training are ongoing. The updated DACS medical module serves as a vital tool for ensuring compliance with medical and mental health care standards. Further, the updated DACS system allows the DOC and CMS to obtain statistical information regarding types of inmate care being provided and areas of need at each of the Facilities.

MEDICAL AND MENTAL HEALTH CARE

(1) Standard:

The DOC continues to strive for compliance with each substantive standard set forth in the MOA. OHS and CMS meet weekly to address problem areas and establish timelines and plans for addressing these concerns. Additionally, OHS solicited advice from experts and consultants when needed. For example:

- The OHS worked closely with Monitoring Team experts during the policy drafting process. OHS obtained policies from several other jurisdictions at the recommendation of Monitoring Team members, and where appropriate, took those models into consideration when developing policies specific to Delaware Department of Correction needs.

³ See the DOC Action Plan, Section 3a , *available at*:
<http://doc.delaware.gov/pdfs/Delaware%20DOC%20Action%20Plan.pdf>

Monitoring Team experts also worked with OHS to ensure that the Delaware DOC policies were consistent with MOA requirements.

- The Delaware Divisions of Health and Social Services (“DHSS”) and Public Health (“DPH”) were consulted regarding immunization and communicable disease reporting practices. As is reported in greater detail below, the OHS has begun new procedures for gathering juvenile immunization information based on its collaboration with DPH. In addition, DOC has been working with DPH on obtaining and administering hepatitis and influenza immunizations.
- The OHS is also currently working with the Delaware Division of Substance Abuse and Mental Health to develop protocols for providing methadone maintenance to pregnant opiate addicts incarcerated in a DOC Facility, in accordance with MOA requirements.

(2) Policies and Procedures:

The DOC submitted its policies for DOJ approval on July 5, 2007. Any policies that the DOJ did not specifically object to in writing were deemed approved 60 days later.⁴ On August 30, 2007, the DOJ requested revisions to some of the policies. The DOC submitted its proposed revisions and/or responses to the requested revisions on October 19, 2007 and received written confirmation from the DOJ that the submission was satisfactory on November 6, 2007. Prior to the implementation of the policies, a meeting with CMS regional and site staff was held at DOC offices to educate staff on the policy manual. On November 19, 2007, the DOC implemented its health care policies under Chapter 11, Health Services of the DOC policy manual.⁵ In addition, DOC has recognized that further policies and procedures need to be drafted, and that effort is ongoing. All additional policies and Facility-specific procedures will be submitted to the DOJ for approval before they are implemented.

(3) Record Keeping:

(a) As noted above, on October 8, 2007, the DACS updated medical module was implemented. Enhancements to the medical module were made in the areas of intake screening, appointment

⁴ See MOA ¶ 61.

⁵ The DOC Health Services policies are available at <http://www.doc.delaware.gov/> (see Chapter 11).

scheduling, medical transfers, chronic care, sick call, outside consult tracking, tracking pregnancy care of offenders, mental health care, administrative segregation, dental care and general reporting functions. Training on all areas of the DACS medical module is ongoing. Further enhancements to the system are anticipated. .

(b) As of January 24, 2008 CMS reports that all medical records positions required under the DOC-CMS contract, with the exception of one, are currently staffed. Due to the high turnover rate of offenders who are admitted and released from HRYCI, the volume of inactive medical records at that Facility greatly exceeded levels at other DOC sites and created needs that were unique to that Facility. This volume also made it difficult to track medical files of offenders who were returning to the Facility, and to ensure that a full medical record was available to providers.

In November 2007, CMS initiated a corrective action plan to address ongoing medical records issues at HRYCI. CMS provided additional outside resources to train existing medical records staff at HRYCI and assist with implementation of the corrective action plan. The DOC is also in the process of relocating and expanding storage space for archived medical records at HRYCI. The new archived medical records room at HRYCI will have capacity to store more than double the number of files currently maintained in the medical records archive, with an expected completion date in March 2008. CMS further reports that it conducts continual training of its medical records staff at all of the Facilities to ensure a unified and full medical record.

(4) Medication and Laboratory Orders:

DOC policy requires that Facility medical staff ensure timely responses to medication orders and laboratory tests. The Audit Tool is being used to monitor compliance with DOC policy. In addition to the quarterly DOC-CMS contractual audits, each Facility conducts a comprehensive quality assurance review to track compliance with DOC policy.

(5) Job Descriptions and Licensure:

CMS reports that it continues to ensure that all staff members are appropriately licensed and credentialed. Under the DOC-CMS contract, CMS is required to provide the DOC with an updated certification list on a monthly basis. Once received, the OHS Senior Fiscal Officer

reviews the certification list to ensure its accuracy and request information regarding any deficiencies in the report.

(6) Staffing:

The DOC currently employs a Health Director, who oversees management of DOC health care services, a Mental Health Treatment Services Specialist, Substance Abuse Treatment Service Specialist, Compliance Coordinator, Administrative Assistant, and Senior Fiscal Administrative Officer in the OHS. The DOC is also recruiting candidates for two other positions: an Advanced Nurse Practitioner and Quality Assurance Administrator. The Governor's recommended budget for 2009 provides for three additional OHS positions: a Utilization Reviewer, Nurse Trainer and Chief Physician. These additional positions, if approved and funded, would assist the DOC OHS's efforts to assure compliance with the MOA and DOC Health Services policies.

(7) Medical and Mental Health Staff Management:

In addition to management services provided by the DOC OHS personnel described above, medical and mental health staff management is provided through the CMS regional office. The CMS regional office staff includes Quality Assurance personnel, a Regional Medical Director, Dietician, Senior Regional Administrator, Regional Director of Nursing, Vice President of Operations, and a Regional Mental Health Director.

As was reported in the July 30, 2007 DOC Compliance Report, 39.15 new health care staff positions were approved by the Delaware DOC, representing a 20% increase in staffing, and the July 1, 2007 contract with CMS was renegotiated to fund those additional positions. The Delaware General Assembly subsequently approved the budget required to fund these new positions. The DOC has contractual remedies available for addressing staffing deficiencies under the July 1, 2007 contract with CMS, and continues to actively monitor performance in this area.

At DCC, SCI and Baylor, a full-time site DON and HSA are currently employed to manage the health care services at each of those Facilities. Because a large population of offenders is housed at DCC, a full-time assistant DON and assistant HSA are also currently included in the staffing

at that Facility, and those positions were filled as of the date of this Report. At HRYCI, a full-time HSA is currently employed, and the DON position has been vacant since December 31, 2007. All Facilities have a full-time Mental Health Director employed to oversee the mental health care of the offenders.

(8) Medical and Mental Health Staff Training:

CMS currently provides monthly in-service training for both medical and mental health staff. In addition, all mental health professionals employed by CMS and providing services at the Facilities are trained and qualified to provide mental health counseling services under guidelines established by the State of Delaware. The DOC, in consultation with CMS, concluded that mental health counselors should be licensed by the State by December 31, 2008, although licensure is not required under Delaware law for the services provided by mental health counselors at the Facilities. CMS employees received two formal notices of the new DOC licensure requirements: the first was issued on July 27, 2007, and the second was distributed on August 24, 2007. As an incentive to employees, CMS offers tuition reimbursement for employees who wish to take classes needed to obtain licensure. The December 31, 2008 licensure deadline may be extended by up to six months under CMS policy, if a mental health professional employed by CMS at DOC facilities is demonstrating good faith efforts to complete the requirements for obtaining licensure. OHS continues to work with the DOC Employee Development Center (“EDC”) to ensure that appropriate staff is trained on medical and mental health needs of offenders. All documentation regarding training attendance, curriculum and records is kept at the DOC Administration Office and is available for the Monitoring Team’s review.

(9) Security Staff Training:

Please see response to numbers (28), (32) and (43).

(10) Medical Screening:

Intake nurses complete an intake medical and mental health screening form using the DACS system. DOC policies require the intake medical screening to be performed within two hours of arrival at a Facility. This screening is performed by nursing staff, and includes a mental health screening. If an inmate answers “yes” to any mental health screening questions, the inmate

automatically receives a referral and assessment by a mental health professional within twenty-four hours. Additionally, nurses performing intake screening also have discretion to refer offenders for a mental health assessment. DOC policy requires the intake nurse to call mental health staff immediately if he or she believes the person poses a risk to themselves or others. In addition to mental health issues, the medical screening is structured to address serious medical conditions, and to identify acute medical needs, infectious diseases, chronic conditions, physical disabilities, and potential for drug and alcohol withdrawal. To ensure that all offenders receive a full and adequate intake screening, the updated DACS system provides monitoring reports indicating whether required intake screenings have been performed. These reports are available to OHS, as well as the HSAs and DONs at each Facility, and are used by the DOC and CMS to assure compliance with DOC intake screening policies.

(11) Privacy:

Please see response to (18).

(12) Health Assessments:

Under DOC policy, a health assessment is performed within seven days of an offender's arrival at a Facility. When the intake process is completed, DACS now automatically schedules appointments for the inmate's health assessment and tuberculosis skin test checks (if applicable), as well as appointments to address any mental health, chronic care, or other significant health care needs identified during intake.

Under NCCHC standards and the DOC's new policies, any inmate who was previously incarcerated in a Delaware DOC facility and received a health assessment within the previous twelve months now receives an intake screening, as well as a chart review performed by medical staff. If the chart review and intake screening do not indicate any change in the inmate's health status from the prior health assessment, a new full health assessment is not required. Monitoring reports generated by DACS are now available to the OHS, HSAs and DONs to ensure compliance with the time frames established under this policy and to track health assessments.

(13) Referrals for Specialty Care:

The newly implemented DOC policies require referrals for specialty care to be completed within 40 days of the initial referral date. For routine requests with wait times exceeding 30 days, the patient is to be seen by the primary care physician at 30-day intervals. If the primary physician believes that the clinical presentation warrants more expeditious scheduling of the appointment, the Regional Medical Director is to be contacted and is responsible for assuring that necessary arrangements are made. The efforts to expedite the appointment are to be documented in the progress note. DOC policy requires follow-up requests to be scheduled in accordance with the outside consultant's recommendations unless the primary care physician documents an alternative plan in the medical record. The DOC Audit Tool provides for quarterly monitoring of this process to ensure compliance. Delays in the scheduling process identified at DCC are being addressed by CMS.

Specialty care referrals are also being monitored through the Facility quality assurance process and monthly reporting of specialty care logs by the Facility HSA for OHS review to ensure compliance with DOC policy. These reports are generated monthly, and included with other monthly reports submitted by CMS to the OHS as part of a contractual requirement. The same specialty care consult reports are also produced by CMS for analysis and discussion at monthly Medical Audit Committee ("MAC") meetings, and the upgraded DACS system has also enhanced the DOC's ability to track outside consults. Problems and delays identified through these efforts are addressed on an ongoing basis by CMS and OHS staff.

(14) Discharge Planning:

Currently, each site HSA receives notification from the DOC classification department of any offenders scheduled for release within thirty days. The HSA forwards the list to the appropriate medical, mental health and dental disciplines for discharge and after-care planning. Discharge planning is performed for offenders with serious medical or mental health issues, and a record of the plan is maintained in the medical record. Special case management is provided for offenders with HIV disease who are scheduled for release. .

(15) Drug and Alcohol Withdrawal:

DOC policy provides that offenders experiencing life threatening intoxication or withdrawal are sent to an acute care facility. Under the MOA, methadone maintenance is offered to pregnant offenders who are addicted to opiates and/or participating in a legitimate methadone maintenance program when they entered a Facility.

To date, two pregnant offenders have been identified as candidates for methadone maintenance since the MOA went into effect, and the DOC made arrangements for this service to be provided through a State-approved methadone clinic. The DOC is also currently working with the Delaware Division of Substance Abuse and Mental Health to develop protocols for methadone maintenance during pregnancy, and notes that a specialist managing an addicted offender's pregnancy may conclude that methadone maintenance is contraindicated in some circumstances. The DOC anticipates that if this occurs, methadone would be used to manage the pregnant inmate's withdrawal from opiates under the direction of an appropriate specialist.

(16) Pregnant Offenders:

CMS is currently providing care and treatment for approximately twenty pregnant females. As part of the intake screening, all females receive a urine pregnancy test. Any female with a positive pregnancy test result is placed on the pregnancy log, receives prenatal vitamins, and is managed by the Facility's OB/Gyn provider. Pregnant offenders are given appointments with the OB/Gyn nurse practitioner and must be seen by the nurse practitioner within seven days of initial intake.

After the OB/Gyn nurse practitioner performs an assessment, the schedule for ongoing treatment is based on the pregnant inmate's particular needs. If complications arise, immediate consultation with the OB/GYN nurse practitioner is provided. If clinically indicated, the OB/Gyn nurse practitioner will refer the inmate to the obstetrician. In addition, the OB/Gyn nurse practitioner is at Baylor on a weekly basis to evaluate pregnant offenders. Compliance with this policy is monitored on a quarterly basis through the DOC-CMS contractual audits.

(17) Communicable and Infectious Disease Management:

CMS employs Infection Control Coordinators at all of the Facilities. DOC policy sets out specific guidelines regarding the type of monitoring that must be conducted for certain types of infectious disease. Offenders with communicable diseases are tracked and monitored by OHS and the Facility Infection Control Coordinator using information collected in DACS through the intake screening, health assessment and other relevant databases to ensure compliance with MOA and DOC standards. Monthly reports are sent to the OHS by CMS for analysis and communicable disease reports are provided to the DPH as required. All communicable and infectious disease statistics are available for review at each Facility by the Monitoring Team.

(18) Clinic Space and Equipment:

The DOC has been working with CMS to identify additional space in the Facilities for examination and treatment, medical records and equipment storage, and staff offices. These efforts have led to the relocation of archived medical records at HRYCI⁶, and additional space is being provided at HRYCI for the intake nurses' station in the booking and receiving area. These changes will allow easy access to archived medical files of offenders who were incarcerated and released from HRYCI during the last three years and provide additional privacy for offenders during the medical intake procedure. This change will also help avoid the creation of duplicate and/or incomplete medical files. Work has also begun on relocating a medication room to a larger room in the Infirmary Unit.

The DOC is providing additional storage space for medications with new custom cabinetry and countertops, which improve security of controlled substances and sharps, and maximize workspace for the medication nurses and pharmacy technician. The existing medication room will be remodeled and used as an exam room for Infirmary patients. This will allow for additional privacy during the exams, as they will no longer have to be performed in the Infirmary cell. To maximize the use of existing clinic space and avoid congestion in the medical unit, CMS has also increased clinic hours at HRYCI. Nurse sick call, physicals, and some dental procedures are now being performed during the early evening hours, when other clinics are not operating.

⁶ See ¶3, above.

At SCI, work has all ready begun on providing additional space for mental health exams and relocating the dental clinic. This will free up additional space in the current medical area and relieve some congestion. Further, DOC is exploring options of expanding the current medical unit.

Options for relocating the medication room at Baylor are being explored, and the DOC is also evaluating options for creating more space for exam rooms and medical/mental health staff offices. New cabinets and countertops are to be installed in the existing medication room to address space and security needs.

At DCC, efforts are underway to add more exam and medical office space in the infirmary area. Additional storage space has been provided in the secured housing unit.

The DOC has purchased new equipment and replaced or repaired outdated equipment where necessary. This includes, since July 1, 2007, the purchase of 20 suicide watch rip-proof mattresses, 4 suicide watch sleeping bags, a dental vacuum pump, and other dental equipment. The DOC OHS also entered into new maintenance contracts for oxygen systems and x-ray equipment, and purchased 23 office computers with software, 9 laser jet printers and 8 file cabinets. Additional equipment needs are being evaluated and addressed by OHS.

As was discussed in the DOC's last Compliance Report,⁷ each Facility implemented an action plan to address cleanliness issues raised in the first Monitor's Report. Under that plan, primary responsibility for cleaning floors, walls, and providing any other janitorial services in the medical units now rests with the DOC. CMS is responsible for tasks that are inappropriate for inmate workers, as well as for cleaning, de-cluttering and organizing areas that are primarily under CMS control. For example, CMS is responsible for sharps and hazardous waste disposal, and for maintaining medication preparation surfaces and medication carts. Each Facility continues to monitor medical unit cleanliness under the action plan; the DOC and CMS jointly perform environmental inspection rounds on a monthly basis to ensure that the medical units are conforming to NCCHC standards for cleanliness.

⁷ See Delaware Department of Correction Compliance Report, at 7 and Appendix 4, *available at*: <http://doc.delaware.gov/Compliance%20Report.pdf>.

Finally, DOC actively continues to research options for expanding medical and mental health treatment space at all of the Facilities. A consulting firm retained by the DOC is currently conducting a feasibility study and evaluating clinic space issues at each Facility.

ACCESS TO CARE

(19) Access to Medical and Mental Health Services:

Currently, offenders who want to obtain health or mental health care services fill out and submit a sick call form. This is a generic form used for all medical, mental health and dental requests. Inmates submit the forms into a secure repository, a process that preserves the confidentiality of inmate health information. Nursing staff is required to collect sick call requests on a daily basis and distribute the requests to the appropriate medical unit providers. CMS personnel responsible to collect sick call forms are required to fill out a “pick up” sheet documenting that the daily collection is made. The DOC now also requires randomly scheduled reviews of the pick up logs, which allows the DOC OHS to monitor compliance with this policy. Additionally, enhancements to DACS now allow the DOC OHS to monitor compliance with sick call policies as part of its quality assurance process. For example, nurse sick call reports are printed from DACS and used in DOC-CMS contractual quarterly audits. Compliance with daily collection requirements, adherence to sick call protocols, and the provision of face-to-face evaluations and follow-up care are some of the issues being monitored during these quarterly audits. CMS reports that it has also implemented site-specific procedures regarding collection of sick call slips.

(20) Isolation Rounds:

CMS reports that it currently follows NCCHC policy regarding medical care for segregated offenders. A patient roster is printed from DACS, and mental health rounds are documented on the roster to ensure all patients are seen. The logs are maintained at the Facility in a central location, and copies are sent to the CMS Regional Mental Health Director on a monthly basis for review. In the event an inmate is referred for follow-up medical or mental health treatment, this information is documented in the inmate’s medical record. Further, DOC policy requires that sick call rounds be conducted on a daily basis by nursing staff.

(21) Grievances:

Pursuant to DOC policy, the time transpiring between the date of an initial medical grievance and the final appeal response is not to exceed 180 days. As of January 30, 2008, there were no outstanding medical grievances over 180 days at Baylor, SCI, or HRYCI. Currently there are 173 outstanding grievances at DCC that exceed 180 days from the time of filing. DOC and CMS are working collaboratively on reducing both the number of outstanding grievances and the time required for resolving grievances. Under the DOC – CMS contract, the proper and timely resolution of medical grievances is the responsibility of CMS, and requires the participation of CMS staff. Nevertheless, DOC has also provided additional staffing to facilitate and expedite the process of resolving grievances at DCC.

Previously, all medical and mental health grievances were filed in DACS under a generic “Health Issues” category. In order to track trends and issues with grievances, three separate categories were created to differentiate between mental health, dental and medical grievances. After the initial investigation is completed on the medical grievance, a hearing before the Medical Grievance Committee (“MGC”) can be requested if the inmate is not satisfied with the initial response to the grievance.

To protect the confidentiality of an inmate’s information, three members of the medical vendor staff and/or OHS staff conduct MGC hearings. These are in-person hearings where the inmate has the opportunity to discuss the medical grievance. After listening to inmate testimony and reviewing the inmate’s medical file, the MGC decides whether to uphold or deny the inmate’s grievance. The DOC has also developed an MGC log, which is used to track follow-up on MGC decisions. The log contains information regarding cases heard by the MGC, the date of the hearing, and whether decisions were upheld and require follow-up (*e.g.*, a physician visit). Further, if an inmate’s grievance was denied by the MGC, the HSA and site Medical Director review the inmate’s grievance with the inmate and explain the reason for the denial. Upon the completion of a MGC hearing, the site HSA is responsible for compiling data for the MGC log and producing its contents to the OHS within two business days. During the subsequent month’s Facility MAC meeting, the HSA is required to provide updates on the grievances in the MGC log with the date that resolution occurred. This ensures that grievance outcomes promised to the

inmate at the time of the MGC hearing are appropriately tracked and that the Facility HSA addresses systematic issues.

CHRONIC DISEASE CARE

(22) Chronic Disease Management:

If an inmate presents with chronic care needs at intake or sick call, DOC policy requires the nurse to complete the chronic care referral form to initiate a clinical evaluation. At the conclusion of the clinical evaluation, the clinician is required to document a treatment plan. The treatment plan should include diagnostic and therapeutic interventions, along with patient education for each chronic illness. The clinician determines the frequency of chronic care appointments, based on the degree of disease control being achieved and maintained.

The physician is expected to order medications and laboratory tests as needed, and to time those orders so that medications do not run out before the next visit and so that laboratory test results are available at the time of the next appointment. CMS is required to follow NCCHC standards for chronic disease care and treatment, and these standards are outlined in the CMS Chronic Care Guidelines handbook. Further, the DACS scheduling function for chronic care appointments automatically schedules the next inmate visit within the time frame indicated by the provider. Continual monitoring using DACS reports, the Audit Tool and the site quality assurance process are used to ensure compliance with chronic care policies and standards.

(23) Immunizations:

As of January 29, 2008, 31 juveniles were housed at HRYCI. Upon intake, the Infection Control Coordinator reviews the juvenile's immunization history. CMS continues to work collaboratively with DOC, the Delaware Department of Services for Children, Youth and Their Families and the DPH Immunization Program to obtain the records, if available, of all juveniles housed in DOC facilities. One tool being used by the DOC and CMS to assist in this process is the State's immunization records online data bank (known as "VACAttack"), which allows the Infection Control Nurse access to the State's data regarding all immunizations that were administered in Delaware. Once juvenile immunization information has been obtained, the DOC

ensures that CMS updates the juvenile's immunizations as needed, in accordance with nationally recognized guidelines and Delaware school admission requirements.

In addition, DOC has obtained hepatitis A and B vaccinations for 1520 offenders. DOC is working collaboratively with CMS to identify offenders who are candidates for the hepatitis immunizations because of chronic conditions or other risk factors. The DOC also purchased over 6,000 doses of influenza vaccine, and offered flu shots to offenders, DOC staff, and CMS employees. Since October 22, 2007, 2195 flu vaccinations have been administered to offenders, DOC, and CMS staff under this voluntary program, with 1900 of the flu vaccinations administered to offenders. All immunization information is maintained in the inmate's unified medical record.

MEDICATION

(24) Medication Administration and (25) Continuity of Medication:

Nurses are required to provide medications at times reflected on the Medication Administration Records ("MAR"), in accordance with medication orders. Normally, first medication passes are done during the morning hours, with a second and third medication pass occurring during the afternoon and evening hours, respectively. Additional passes include lunchtime blood glucose checks and insulin injections as indicated. At the end of a shift, the medication administration nurse reviews the Medication Administration Records to identify patients who missed or declined medications, and is required to follow up appropriately. If a patient is non-compliant for three consecutive doses of medication, the patient is scheduled to meet with a provider to discuss the noncompliance and its possible ramifications for the inmate's medical treatment. Pursuant to CMS policy, the site DON consistently monitors medication administration, with ongoing medication administration education provided to staff responsible for distributing medication to offenders. Further monitoring of this policy is conducted through quarterly DOC-CMS contractual audits and the Facility's quality assurance process to ensure that new medication orders are implemented and delivered in a timely manner. This process is also used

to monitor ongoing compliance with the medication scheduled ordered by a provider, the appropriate maintenance of MARs, and medication continuity.

(26) Medication Management:

DOC policy requires medication storage rooms to be locked at all times, and inspections by DOC compliance personnel confirm adherence to this policy. Keys to medication rooms are kept with a member of the nursing staff and used to enter and exit the dispensary. CMS currently has two different policies governing medication disposal. For narcotics and other controlled substances, a log is maintained at each Facility documenting the receipt, administration, and disposal of the medication. All other medications that are discontinued (because an inmate has been released or for medical reasons) are returned to the vendor pharmacy by CMS.

EMERGENCY CARE

(27) Access to Emergency Care:

Offenders who require acute emergency care are transported from a Facility to an offsite health care provider for emergency evaluation and treatment as necessary. The Regional Medical Director reviews each emergency care case to ensure that staff took appropriate measures before the emergency occurred, and to identify alternatives that might have averted the emergency and the need for acute care.

(28) First Responder Assistance:

Currently, all DOC correctional employees attend a nine-week course, “Correctional Employee Initial Training,” which is provided by the DOC, before commencing employment at a DOC Facility. During this training, all security staff receives seven hours of CPR training and an additional seven hours of First Aid training. This class also includes training on Automatic Emergency Defibrillator machines. All security staff receives another seven hours of training on “Special Medical Topics.” This class provides training on such issues as contagious disease and blood borne pathogens. CMS medical professionals teach all three classes.

In addition to the initial orientation training, security staff receives yearly refresher training on CPR, First Aid, and use of Automatic Emergency Defibrillator machines. Refresher training for

“Special Medical Topics” is provided every three years. All security staff employees are issued equipment to be used during first line emergency response (CPR masks, latex gloves and a glove pouch) as part of their uniforms. Logs of employee training attendance are maintained by the DOC Employee Development Center located at the DOC Central Administration Building and available for inspection by the Monitoring Team.

MENTAL HEALTH CARE

(29) Treatment:

Mental Health Services are available to all offenders at each Facility; qualified mental health professionals provide these services.

(30) Psychiatrist Staffing:

CMS reports that as of January 24, 2008, only one full-time contracted psychiatrist staff position is vacant.

When an inmate receives care from a psychiatrist, a mental health clinician is present during the visit to take notes and document modifications to the treatment plan as needed. The psychiatrist oversees Mental Health Treatment team meetings, which are conducted between the psychiatrist, clinician, and inmate. To expand needed coverage of psychiatric services, on January 14, 2008, DOC launched a tele-psychiatry program, which allows the psychiatrist located in the Northern region of Delaware to provide services to offenders at SCI through a video-conferencing system. CMS and DOC are working to expand the tele-psychiatry program and ensure that all psychiatric needs are met at the Facilities.

(31) Administration of Mental Health Medications:

CMS has adopted a set of clinical protocols that set forth laboratory tests required for patients being treated with certain psychotropic medications. . A psychiatric nurse has also been added to the staff at DCC for the special needs units. The nurse monitors psychiatric medications prescribed to offenders in this unit to ensure continuity of the medications and evaluate potential side effects. All medication, including psychotropic medication, is documented on the inmate’s MAR. Additional monitoring of compliance with policies and protocols relating to the

administration of mental health medications occurs through quarterly DOC-CMS contractual audits and the Facility's quality assurance process. In particular, these tools are used to ensure timeliness of receipt of medications after the provider prescribes them. These processes are also used to monitor and improve medication continuity, adherence to daily medication administration schedules, and the maintenance of appropriately documented MARs.

(32) Mental Illness Training:

During the seven-hour initial training course regarding "Special Medical Topics," DOC staff receives instruction on various issues regarding mental illness. The course is taught by a qualified health professional from CMS. This training teaches DOC staff to make observations based on mental health needs and to request behavioral observation and referral to Mental Health Staff when needed. Refresher training for this topic is provided every three years; the last training was performed in 2005, and the next refresher training is scheduled to occur in 2008. Logs of employee training and attendance are maintained by the DOC Employee Development Center, located at the DOC Central Administration Building, and are available for inspection by the Monitoring Team.

(33) Mental Health Screening:

As noted in the Screening and Treatment section of this report, a mental health screening is performed on each incoming inmate as part of the initial intake screening. If an inmate answers "yes" to any questions on the mental health portion of the screening, the inmate automatically receives a mental health referral through the DACS system and assessment by a mental health professional within twenty-four hours. Additionally, as is discussed in greater detail below and in ¶ 10, the nurse performing an intake screening has discretion to refer an offender to mental health if the referral is believed to be necessary, even in the absence of positive responses on the mental health portion of the screening.

(34) Mental Health Assessment and Referral:

Any medical or mental health professional can refer an inmate to psychiatry. Additionally, any DOC or vendor staff can ask for a mental health assessment if the situation warrants. The inmate will be seen for a mental health assessment, which is to be completed within five to ten days from the date of the referral. To assure confidentiality, any self-referrals for mental health

treatment are made through the sick call procedure. Random audits of sick call pick-up logs and quarterly use of the Audit Tool at all Facilities help ensure adequate response times to sick call requests for mental health issues.

(35) Mental Health Treatment Plans:

Treatment plans are initiated by a mental health professional at the first visit and reviewed at least every three months by the Mental Health Treatment team. Each Facility maintains a Mental Health roster that lists each individual inmate who is receiving mental health services. The list also specifies the date of the next treatment plan review scheduled for the inmate to ensure that the reviews are performed in a timely manner. Inmate mental health treatment plans are maintained in the inmate's unified medical record.

(36) Crisis Services:

When a crisis situation occurs, the inmate is immediately assessed by a mental health professional. Less severe situations could involve an inmate who requires only short-term monitoring or psychiatric observation. The most extreme cases result in referral and transfer to the Delaware Psychiatric Center or an acute care facility, if needed. When clinically necessary, an inmate at the Facility who becomes a risk for harm to self or others may require therapeutic restraints or involuntarily medication. From June 30, 2007 to January 25, 2007, seventeen offenders were given involuntary medication under such circumstances, and twenty-three offenders required therapeutic restraints. When these measures are not successful in stabilizing the inmate, the inmate is transported to an acute care hospital. DOC policies prohibit the use of administrative/disciplinary isolation in response to psychiatric emergencies.

(37) Treatment for Seriously Mentally Ill Offenders:

Currently there are various programs for offenders with mental health needs that include screening, assessment, routine mental health counseling (occurring on a monthly basis, at minimum), psychopharmacological intervention with a review by a psychiatrist at least every 90 days, group treatment, special needs units and psychiatric observation for offenders who are either suicidal or have decompensated to the extent that they cannot be safely managed in their

normal housing unit. If an inmate cannot be managed with mental health services provided at the Facility, a referral to Delaware Psychiatric Center is made.

(38) Review of Disciplinary Charges for Mental Illness Symptoms:

DOC is currently in the process of drafting a policy that requires medical staff to review the medical records of all offenders who are placed in segregation. The policy will require that when medical staff identify that an inmate placed in isolation has a history of mental illness, a referral be to be made to mental health staff. Mental health staff will be required under the new policy to perform a follow-up assessment to identify any contraindications to the placement in segregation. If any DOC or CMS staff believe that an inmate's mental health condition is related to or may have contributed to their disciplinary charges, the inmate will be referred to a mental health professional for assessment, and mental health professionals will provide recommendations based on that assessment to the security staff conducting the disciplinary hearing.

(39) Procedures for Mentally Ill Offenders in Isolation or Observation Status:

As noted above, based on the inmate's medical history, a referral is made to mental health for offenders placed in isolation who are currently receiving mental health treatment. The number of rounds performed by mental health staff exceeds the once a week requirement established in the MOA; mental health rounds on offenders in segregation occur three times each week. The Facility psychiatrist is required to review documentation regarding the mental health rounds. As is discussed in ¶ 38, mental health staff communicates any concerns regarding contraindications to segregation, and custody staff is required to respond appropriately.

(40) Mental Health Service Logs and Documentation:

As noted above, the mental health clinicians at each Facility maintain a Mental Health roster listing each individual receiving mental health services. The roster is currently accessible by all mental health employees at each Facility.

SUICIDE PREVENTION

(41) Suicide Prevention Policy:

The DOC submitted its policies, including its Suicide Prevention Policy, for DOJ approval on July 5, 2007; most of those policies were deemed approved after 60 days under relevant MOA provisions. On August 30, 2007, the DOJ requested revisions to some of the policies. The DOC submitted its proposed revisions and/or responses to the requested revisions on October 19, 2007 and received written confirmation from the DOJ that the submission was satisfactory on November 6, 2007. Prior to the implementation of the policies, a meeting with CMS regional and site staff was held at DOC offices to educate staff on the policy manual. On November 19, 2007, DOC implemented its Suicide Prevention Policy.

(42) Suicide Prevention Training Curriculum:

DOC worked collaboratively with the Monitoring Team Mental Health experts to draft the Suicide Prevention Training Curriculum and policy. The curriculum, at a minimum, addresses the DOC Suicide Prevention policy, the ways in which the Facility environment may contribute to suicidal behavior, potential predisposition factors to suicide, high risk suicide periods, case studies of recent suicides and serious suicide attempts, mock demonstrations and proper use of emergency equipment.

(43) Staff Training:

The DOC Action Plan states that Suicide Training will be provided to the entire DOC security staff by January 1, 2008. As of the date of this report, 2,247 DOC employees have completed the Suicide Prevention Training Course, and the Facilities report that all security staff has received the required training. Courses are ongoing, and will continue to be provided to all new hires after existing staff is trained. Each Facility training coordinator maintains training records. Additional copies of the training records are maintained at the DOC Central Administration Building by the OHS Senior Fiscal Administrative Officer, and are available for the Monitoring Team's review.

(44) Intake Screening/Assessment:

Currently, the DOC uses an intake screening that covers all of the required areas listed in the MOA. A Mental health assessment is provided for those patients whose screening indicates any positive answer to the screening tool.

(45) Mental Health Records:

An inmate who reports a significant medical or mental health history or recent mental health hospitalization at intake is asked to complete a release of information form. The medical and mental health staff requests the relevant medical documents from outside providers. The CMS medical records staff is responsible for forwarding the request for documents to the appropriate health care provider(s). Once received, the records are filed with and become a part of the inmate's unified medical record. CMS is currently working to improve the process of obtaining relevant information from the outside providers.

(46) Identification of Offenders at Risk of Suicide & (47) Suicide Risk Assessment:

When an inmate is identified as at risk for suicide, the inmate is kept under constant supervision, mental health/medical is contacted immediately and an order is obtained to place the inmate on suicide precautions. The inmate is also assessed by a qualified mental health professional as soon as possible and no later than twenty-four hours after the risk has been identified.

(48) Communication:

All steps taken relating to inmate suicide precautions are documented by the CMS DOC staff responsible for carrying out those steps, and become part of the inmate's unified medical record. Multi-disciplinary team meetings are also conducted on a weekly basis regarding the inmate's stability and their status on suicide precautions. Offenders are not downgraded or discharged from suicide precautions until the responsible medical and mental health care staff has thoroughly reviewed the inmate's health care record. Mental health staff is instructed to discuss patient progress with custody staff when making decisions regarding downgrade or discharge of observation status.

(49) Housing:

All cells used to house offenders on suicide watch are visible to correctional staff, and steps have been taken to improve suicide resistance in cells used for this purpose. For example, breakaway

sprinkler heads have been installed where needed in cells used for suicide watch. Mental Health staff determines the level of restriction (what items an inmate may have in their cell) is appropriate for the inmate based on clinical judgment.

(50) Observation:

At the highest level of psychiatric observation, offenders are observed on a constant basis. All other offenders on observation are monitored at least every fifteen minutes by correctional staff and during each shift by medical staff. A physician performs a physical assessment whenever an inmate is placed on observation. Further, mental health staff assesses and interacts with all offenders on a daily basis.

(51) “Step-Down Observation”:

Currently, DOC has implemented policies and procedures that require step down levels of observation to be utilized when offenders are released from suicide precautions. Follow-up assessments are conducted initially within twenty-four hours following discharge from suicide precautions and subsequently as clinically indicated on the individual treatment plan.

(52) Intervention:

This topic is covered under the DOC’s response to First Aid/CPR training and Suicide Prevention Training.

(53) Mortality and Morbidity Review:

Current policy requires a mortality and morbidity review to be accomplished in the event of a suicide or a serious suicide attempt. Since July 30, 2007, there have been ten serious suicide attempts by offenders at the Facilities. Mortality and morbidity reports were completed in each case, are maintained at the DOC Central Administration Building, and are available for review by the Monitoring Team.

QUALITY ASSURANCE

(54) Policies and Procedures and (55) Corrective Action Plans:

DOC policies address a number of quality assurance processes. A Quality Improvement Program has been implemented, and is monitored by the Facility HSA and Regional DON. Each Facility will also maintain a Quality Improvement Committee ("QI Committee") to review the implementation, maintenance and monitoring of the Quality Improvement Program. The Facility Quality Improvement Committee will meet on a monthly basis to discuss its findings and issue corrective action plans when appropriate.

A Statewide Quality Improvement Committee will review implementation, maintenance, and monitoring of quality assurance programs at the Facilities. The QI Committee will meet on a quarterly basis and review all minutes and quarterly reports submitted by the QI committees and make recommendations to the Commissioner of Correction as necessary. Further, an annual report will be generated to the Commissioner summarizing areas that have been improved in the past year and those which need improvement. DOC and CMS have formed the committees at the Facility and state levels and have also begun the process of identifying areas to be addressed in the QI process during the 2008 calendar year. Finally, a member of the Monitoring Team will provide formal training on the quality improvement process to CMS and DOC staff in February 2008.

Respectfully submitted this 30th day of January, 2008.

By: **/s/ Candie M. Dibble**
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